

REMARKS

Claims 40-58 are pending, and all are indicated to be rejected in the Office Action Summary. However, only claim 53 is specifically rejected, namely, under 35 USC §102(b) as being anticipated by Maieron (US Pat. No. 3,779,848). For purposes of this response, Applicants will assume that the anticipation rejection over Maieron applies to the other pending claims as well, i.e., claims 40-52 and 54-58.

Maieron is directed to a container-opening structure comprising a flexible tape and pressure-rupturable capsules (title). As shown in FIG. 3, the tape T is fixed to a substrate S (col. 2, lines 3-19). On the opposite side of the substrate S there are deposited a plurality of capsules C, which are dispersed in a binder B (col. 2, lines 20-23). The completed assembly, consisting of tape T, substrate S, binder B, and capsules C (hereinafter referred to as the "tape assembly"), are adhered to an outer flap 3 of a container via a glue line 6 (col. 2, lines 30-36). As shown in FIG. 3, Step V, the glue line 6 connects with the tape assembly at the capsule/binder dispersion layer.

The capsules C contain substances such as aromas, insect repellants, etc. (col. 3, lines 36-47). The capsules C release their contents by rupturing when the tape assembly is pulled to tear through flap 3, thereby opening the box or other container of which flap 3 is a component (paragraph bridging cols. 5-6).

Materials that may be employed as the binder B are described at col. 5, lines 10-23 (including starch and starch derivatives, e.g., hydroxy ethyl ether).

Materials that may be used to form the capsules are described at the paragraph bridging columns 3-4, and may include various materials or combinations of materials, such as cellulosic polymers, gelatin-gum arabic, etc.

Materials from which the glue line 6 may be formed include conventional paper adhesives, such as dextrin, gelatin, casein, etc. (col. 2, lines 60-64).

The Office takes the position that

- the claimed “second layer” reads on the tape T/substrate S sub-assembly;
- the claimed “first layer” reads on the layer containing the binder B and capsules C; and
- the claimed “third layer” reads on the glue layer 6 because the capsules “are also in the glue formulation in layer 6 to adhere the tape to a flap 3” (Office Action at page 3).¹

While acknowledging that Maieron does not teach a film wherein at least a portion of the binder and the additive in the third layer are transferred to a food product, the Office nevertheless contends that the laminate taught in Maieron would inherently have the same properties as claimed since Maieron teaches the same laminate having the same chemical components.

Applicants respectfully traverse the rejection for the following reasons.

Initially, Applicants respectfully contend that the “third layer” of Maieron would not be capable of transferring at least a portion of a binder and additive to a food product during cooking. This is because such “third layer” (glue + capsules) is adhered to the outer flap 3 of container 1 (FIG. 3, Step V of Maieron). The flap 3 would thus prevent the transfer of anything from the “third layer” of Maieron’s tape assembly to a food product since such “third layer” would not be able to

¹ Independent claim 40 recites “first,” “second,” and “third” layers while independent claim 53 recites only “first” and “second” layers. Accordingly, even though claim 53 is the only claim specifically referenced as being anticipated by Maieron, Applicants assume that Maieron is being compared to claim 40 at page 3 of the Office Action.

come into contact with a food product. Instead, the “third layer” is trapped between the flap 3 and the rest of the tape assembly, i.e., binder B and substrate S.

The “third layer” of Maieron does not exist independently of the container flap 3. As discussed at col. 2, lines 30-37 and shown in FIG. 3, Step IV, the glue line 6 is first applied to flap 3, and then the tape assembly is adhered to the glue line 6 and flap 3.

Moreover, Maieron teaches release of the aroma from the capsules by physical rupture of the capsules. As described at the sentence bridging columns 5-6, the tape T shears through the capsules to release the contained aroma, and concurrently slits through the container flap 3 to open the box (of which the flap 3 is a component). Maieron does not teach or suggest the transfer of the aroma or other additive during cooking of a food product as claimed.

Accordingly, Maieron provides no teaching or suggestion of a film that is capable of transferring at least a portion of a binder and an additive to a food product during cooking, as specified in independent claims 40 and 53. Those claims, and the claims that depend therefrom, are therefore submitted to be patentable over Maieron for at least this reason.

Furthermore, Maieron teaches that the aroma is physically contained within the capsules. Thus, the aroma is not in contact with or adhered to the binder B. Instead, the aroma is physically separated from the binder B by the walls of the capsules C. In contrast, the additive in accordance with the present invention is chemically bound to the binder such that the additive can be transferred to a packaged food product during cooking.

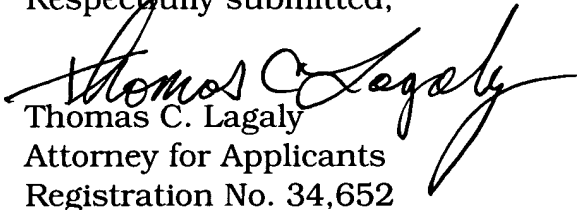
In order to clarify this feature of the invention, claims 40 and 53 have been amended to recite that the "additive [is] bound to said binder with at least one member selected from a covalent bond, an ionic bond, a hydrogen bond, and a dipole-dipole interaction." Support for the amendments may be found in the specification generally and, more specifically, at page 8, lines 6-8.

Maieron does not teach or suggest the foregoing feature.

Accordingly, the claims as now presented are submitted to be patentable for this additional reason.

For all of the foregoing reasons, Applicants submit that all of the claims as currently presented are patentably distinct from the references of record and are, therefore, in condition for allowance. A Notice of Allowance is earnestly solicited.

Respectfully submitted,


Thomas C. Lagaly
Attorney for Applicants
Registration No. 34,652

Cryovac, Inc.
P.O. Box 464
Duncan, SC 29334
(864) 433-2333

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